

REMARKS

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 6, 17, 32, 33 and 65-75 are pending in this case. Claims 6, 17, 32, 33 and 65-75 have been examined on the merits, with the elected species being a compound having the claimed formula in which X is pyridine. Claims 6, 33 and 65-75 have been rejected under 35 U.S.C. 102(e). Claim 32 has been rejected under 35 U.S.C. 103(a). Claims 6 and 32 have been amended herewith.

Claim Amendments

The Examiner has stated that the terminal disclaimer to the claims filed on November 9, 2009 has overcome the previous rejection, and that the search and examination was extended. The Examiner has further stated that prior art was found that anticipated non-elected species wherein X is thiazole and that therefore the Markush claims have been rejected and species outside of the subgenus wherein X is pyridine are held withdrawn from further consideration. The Examiner has stated that Applicant will be entitled to rejoinder of non-elected species upon allowability of the generic claims.

Claims 6 and 32 have been amended so as to no longer read on species wherein X is thiazole, as discussed in detail hereinbelow.

Accordingly, and as further submitted hereinbelow, Applicant respectfully requests considering a rejoinder of non-elected species in view of the allowability of the generic claim.

35 USC § 102(e) rejection

The Examiner has stated that claims 6, 33 and 65-75 are rejected under 35 U.S.C 102(e) as being anticipated by Thatcher et al. Claims 6 and 32 have been amended.

While traversing the Examiner's rejection for reasons previously set forth in this case, Applicant has chosen, in order to expedite prosecution, to amend claim 6 so as to no longer recite compounds in which X in the claimed general formula is thiazole or thiophene.

Claim 32 has also been amended, so as to be in line with the scope of amended claim 6.

Applicant respectfully submits that the subject matter of amended claim 6, and of claims depending therefrom is not anticipated by Thatcher et al. and is therefore allowable.

35 USC § 103(a) rejection

The Examiner has stated that claim 32 is rejected under 35 U.S.C 103(a) as being obvious over Thatcher et al. Claim 32 has been amended.

Specifically, the Examiner has referred to the compound referred to in the instant application as **Pet-95**, and to compound RN 854925-90-0, disclosed in Thatcher et al., and has stated that **Pet-95** is a H vs. Methyl replacement with regard to RN 854925-90-0.

While traversing the Examiner's rejection Applicant has chosen to amend claim 32, so as to no longer recite **Pet-95**, thereby rendering moot the Examiner's rejection.

Examination of generic claims

In view of the amendments made to the claims and the arguments recited herein it is believed that the claims are allowable with respect to the elected species and hence examination of claims 6, 32, 33 and 65-75 in their generic context and with respect to all the species recited therein is respectfully requested.

Consideration of rejoining claims 34-42, which depend from claim 6 and which are currently withdrawn as being drawn of a non-elected invention, is also respectfully requested.

In view of the above amendments and remarks it is respectfully submitted that claims 6, 17, 32, 33 and 65-75, as well as claims 34-42, are now in condition for allowance. A prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,

/Jason H. Rosenblum/

Jason H. Rosenblum
Registration No. 56,437
Telephone: 718.246.8482

Date: June 7, 2010

Enclosures:

- Petition for Extension (3 Months)